IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.5618 of 1996

Between:

Y Rama Krishna Rao, S/o Late Sri Jogiraju
Hindu College, Guntur

..... PETITIONER

AND

1 Commissioner of College Education, Government Of AP.,
Hyderabad
2 State of AP. Rep. By its Secretary, Education Department,
Secretariat, Hyderabad.
3 The Regional Joint Director of Higher Education,
Guntur.
4 The Secretary and Correspondent,
Hindu College, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order direction especially one in the nature of Mandamus. 1) declaring that he petitioner is entitled for promotion as superintendent in Hindu College, Guntur, in preference to others in the vacancy arising on 31-3-1996. ii) compel the respondent to consider the petitioner case as Superintendent in Hindu College, Guntur, with effect from 31/3/1996 and to grant all consequential reliefs,. and iii) to grant such other relief or reliefs as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: Mr. V.JOGAIAH SARMA

Counsel for the Respondents 1 to 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.4 : Mr. P. SURESH

The Court made the following :

ORAL ORDER:

The only grievance of the petitioner is that his case for promotion to the post of Superintendent in the Hindu College, Guntur, with effect from 31-3-1997 has not been considered by the respondents.

It is the case of the petitioner that though he is entitled for promotion to the post of Superintendent in preference to others in the vacancy that had arisen on 31-3-1996, the respondents have not considered his case in spite of there being a vacancy and in spite of the fact that he is fully qualified and eligible to hold the said post and that the action of the respondent, in this regard, is arbitrary and illegal.

Separate and detailed counter affidavits have been filed by respondents 1 and 4 denying the allegations made by the petitioner. It is asserted in the counter of the 1st respondent that as per eligibility criteria, one must have put in not less than three years of service, of which two years necessarily in the cadre of a Senior Assistant and further, the candidate must have passed the departmental tests prescribed i.e. Accounts Test for Subordinate Officers Part I and Deputy Inspectors' Test Papers I to III for promotion to the post of Superintendent. In fact, no staff member in the private College is eligible for promotion to the post of Senior Assistant/Superintendent without passing the prescribed Departmental Tests. The petitioner does not hold the said qualifications and he cannot claim for any sort of relief/relaxation from passing the departmental tests.

However, Sri V.Jogaiah Sarma, learned counsel for the petitioner, asserts that since the petitioner crossed the age of 45 years, there is no necessity of passing the

departmental tests and he is exempted from passing the tests. Therefore, the petitioner is entitled for being promoted to the post of Superintendent in his turn. But, no rule is brought to the notice of this Court as to the exemption of passing of tests by an employee, who has crossed the age of 45 years. In view of that, without going into the merits of the case, the respondents are directed to treat the affidavit filed in support of this writ petition as a representation of the petitioner and pass appropriate orders as to the eligibility of the petitioner for promotion to the post of Superintendent and communicate the same to the petitioner, within a period of two months from the date of receipt of a copy of this order. It is needless to mention that in case the petitioner is found to be eligible and qualified for being promoted to the post of Superintendent, he is entitled for all consequential benefits.

Accordingly, the writ petition is disposed of. No costs.

16-12-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Commissioner of College Education, Government Of AP., Hyderabad
2 State of AP. Rep. By its Secretary, Education Department, Secretariat, Hyderabad.
3 The Regional Joint Director of Higher Education, Guntur.
4 The Secretary and Correspondent, Hindu College, Guntur.

5. 2CCs to Government Pleader for Higher Education, High Court Buildings, Hyderabad (OUT)

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